

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff,

v.

L.A.D. GENERAL CONTRACTORS, Inc.,
ANDREW DIDIO and LAURA ANN DIDIO,

Defendants.

Civil Action No. _____

COMPLAINT

Plaintiff, the United States of America ("United States"), by authority of the Attorney General and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), files this complaint and alleges as follows:

STATEMENT OF THE CASE

1. This is a civil action under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9607, for recovery of response costs incurred by the United States in response to the release or threat of release of hazardous substances at the River Bend and Andela Superfund Sites ("Sites") located in Bucks County, Pennsylvania. The United States also seeks a declaratory judgment, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), and 28 U.S.C. § 2201 on the Defendants' liability that will be binding in any subsequent action or actions to recover further response costs incurred by the United States.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and the parties hereto, pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 9613(b).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 9613(b) because the releases of hazardous substances giving rise to the claim occurred in this

district and the Site is located in this district.

DEFENDANTS

4. Defendant L.A.D. General Contractors ("L.A.D.") is a Pennsylvania corporation. For many years L.A.D. operated a paint and body shop business and a sand blasting operation on portions of both Sites.

5. Defendant Andrew DiDio is a natural person who owns all the stock of L.A.D. Defendant Laura Ann DiDio, a natural person, is the wife of Andrew DiDio and is an officer of L.A.D. Both DiDio defendants were the owners of the property on which both Sites are located when hazardous substances were disposed on that property.

6. All Defendants are "persons" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

GENERAL ALLEGATIONS

7. The River Bend site occupies a 6-acre parcel in Warwick Township, Bucks County, Pennsylvania. It is owned by and is the residence of Laura and Andrew DiDio. The Andela site is located on 279 acres in the same township, adjacent to the River Bend site. Prior to 1989, the DiDios owned and farmed the property on the Andela Site is located.

8. In 1997, EPA determined that releases and threatened releases of hazardous substances in soils and other media on both sites presented unacceptable risks to human health and the environment. These hazardous substances included poly chlorinated biphenols (PCBs), lead, phenol, 4-methylphenol, and pyrene.

9. In response to these releases and threats, EPA conducted studies and investigations to determine the extent of the problem. The agency also took cleanup action, including excavation and proper off-site disposal of approximately 1,000 tons of contaminated soil and 13,000 pound of liquids containing hazardous substances.

10. EPA also issued administrative orders on consent to the DiDio Defendants and to LC Associates, an entity that had acquired the property on which the Andela Site is situated. These orders required further cleanup activities. Both the DiDios and LC Associates complied with the EPA orders.

11. The Andela and River Bend Sites are “facilities” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

12. Defendants Andrew and Laura Ann Didio are persons who owned the property on which the Andela and River Bend Sites are located when hazardous substances were disposed there. As such, they are both within the class of persons described in Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

13. Defendant L.A.D. operated at both the River Bend and Andela sites when hazardous substances were disposed there. L.A.D. is therefore a person as described in Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

14. There have been and continue to be “releases” or “threatened releases” of “hazardous substances” within the meaning of Sections 101(14), 101(22) and 107(a) of CERCLA, 42 U.S.C. §§ 9601(14), 9601(22) and 9607(a), into the environment at and from the Site.

15. The United States has incurred in excess of \$1.16 million in costs of response related to the releases and threatened releases of hazardous substances at or from the River Bend and Andela Sites. The United States may incur additional costs of response related to such releases at or from those Sites. These costs have been and will be incurred in a manner not inconsistent with the National Contingency Plan. 40 C.F.R. Part 300.

CLAIM FOR RELIEF

16. Paragraphs 1 through 15, inclusive, are re-alleged and incorporated herein by reference.

17. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part: Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this Section –

- (1) the owner and operator of a vessel or a facility,
- (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of . . .

from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for –

- (A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan

18. The release or threatened release of hazardous substances at the Site has caused the United States to incur response costs as defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25). The United States will continue to incur response costs in connection with the Site in the future.

19. The costs of the response actions taken and to be taken by the United States in connection with the Site are not and will not be inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

20. Pursuant to Section 107(a), 42 U.S.C. § 9607(a), Defendants are jointly and severally liable to the United States for all response costs incurred and to be incurred by the United States at the Andela and River Bend sites.

21. Pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the United States is also entitled to a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages.

PRAYER FOR RELIEF

Wherefore, Plaintiff, United States of America, respectfully requests that this Court:

1. Enter judgment against each Defendant, jointly and severally, in favor of Plaintiff for response costs which have been incurred by the United States at and in connection with the release or threatened release of hazardous substances from facilities at the Andela and River Bend sites, plus interest;

2. Enter a declaratory judgment on liability, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), and 28 U.S.C. § 2201, against each Defendant in favor of Plaintiff, that will be binding in future actions to recover further response costs;

3. Grant such other and further relief as the Court deems appropriate.

Dated this _____ day of _____, 2006.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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